

REMARKS

The Office Action dated December 3, 2008 ("Office Action"), has been reviewed and carefully considered. Claims 1, 4-6, 10, 14, 16, 20, 21, 23, and 24 have been amended. No new matter has been added. Claims 1-24 are currently pending. In view of the following remarks, reconsideration and allowance of all of the claims pending in the application are respectfully requested.

I. REJECTIONS UNDER 35 U.S.C. § 101

On page 2 of the Office Action, claims 1-9 were rejected under 35 U.S.C. § 101 as allegedly being directed toward non-statutory subject matter. However, Applicants respectfully disagree.

"A claimed process is patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing." *In re Bilski*, 545 F.3d 943, 954 (Fed. Cir. 2008). That is, "a claimed process involving a fundamental principle that uses a particular machine or apparatus would not pre-empt uses of the principle that do not also use the specified machine or apparatus in the manner claimed." *Id.* Also, "a claimed process that transforms a particular article to a specified different state or thing by applying a fundamental principle would not pre-empt the use of the principle to transform any other article, to transform the same article but in a manner not covered by the claim, or to do anything other than transform the specified article." *Id.* Thus, "a claim that is tied to a particular machine or brings about a particular transformation of a particular article does not pre-empt all uses of a fundamental principle in any field but rather is limited to a particular use, a specific application." *Id.* at 957. However, even if a claim recites a specific machine or a particular transformation of a specific article, the recited machine or transformation must not constitute mere "insignificant postsolution activity." *Id.*

The Office Action asserts that claims 1-9 refer to a “system,” however the claimed system is a software per se, because of a series of modules are to be executed. Also, the Office Action asserts that the claims 1-9 do not define structural and functional descriptive material used in interrelationship between the computer software and the hardware like a memory or processor. Applicants respectfully disagree. Applicants respectfully submit that claims 1-9 do recite tangible embodiments. For example, claim 1 recites a “system” for automated generation of one or more query language statements comprising: a syntax pattern selector module for selecting, in an automated process, a syntax pattern corresponding to a desired function provided to the syntax pattern selector module and a syntax standard for use in generating the one or more query language statements; a statement assembly module for populating the syntax pattern in an automated process with an argument data set associated with parameters of a desired data set provided to the statement assembly module as part of the process of generating the one or more query language statements; and whereby at least one query language statement having a tree query structure is assembled to be run against a data source to return the desired data set.” In other words, claim 1 recites a *system* having several *modules* that actually and physically perform the features of the claim and not “software per se,” as alleged by the Office Action.

Also, Applicants submit that the specification of the present application contradicts the Office Action’s allegation that the claimed system is a software per se. Specifically, the specification recites that the “system 300 may be a portion of an OLAP system, such as an OLAP embodiment of the system 100 from Fig. 1 above. The system 300 includes a report engine 302, a query generation engine 304, an analytical engine 306, and a query engine 308 for retrieving data from a data source 310.” *See, e.g.*, Specification, page 14, lines 6-9. Also, the specification discloses that the system 100 may comprise a user engine 102, communicative with an analytical

engine 104, a query engine 106, and one or more data storage devices 108. The user engine 102, the analytical engine 104, and the query engine 106 or other resources of the system 100 may include or interface to or be supported by computing resources, such as one or more associated servers. *See, e.g.*, Specification, page 8, line 3 to page 9, line 6. Therefore, Applicants respectfully submit that the system comprising various modules recited in claim 1 is hardware and not software per se, as alleged in the Office Action.

In view of the foregoing, Applicants respectfully request that the aforementioned non-statutory subject matter rejection of claims 1-9 be withdrawn.

II. REJECTIONS UNDER 35 U.S.C. § 102

On page 3 of the Office Action, claims 1-24 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Publication No. 2004/0039730 to Saeki (hereinafter "Saeki"). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re King, 801 F.2d 1324, 1326 (Fed. Cir. 1986). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Celeritas Tech., Ltd., v. Rockwell Int'l Corp., 150 F.3d 1354, 1361 (Fed. Cir. 1998). The prior art reference must disclose all of the claim elements arranged or combined in the same way as recited in the claim. Net MoneyIN, Inc. v. VeriSign, Inc., 545 F.3d 1359, 1369 (Fed. Cir. 2008). "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479 (Fed. Cir. 1986), *cert. denied*, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533 (Fed.

Cir. 1985). Such possession is effected only if one of ordinary skill in the art could have combined the disclosure in the prior art reference with his/her own knowledge to make the claimed invention. Id.

Regarding claim 1, the Office Action asserts that Saeki discloses the claimed invention. Applicants respectfully disagree. However, in order to forward the prosecution of the present application, Applicants have amended claim 1 to more specifically define the claimed invention. In particular, Applicants respectfully submit that Saeki fails to disclose, or even suggest, a system for automated generation of one or more query language statements comprising: “a syntax pattern selector module for selecting, in an automated process, a syntax pattern corresponding to a desired function defining a default syntax pattern provided to the syntax pattern selector module,” “a statement assembly module for populating the syntax pattern in an automated process with an argument data set associated with parameters of a desired data set provided to the statement assembly module,” and “at least one query language statement having a tree query structure is assembled to be run against a data source to return the desired data set,” as currently recited in claim 1. In contrast, Saeki merely discloses that a calculation syntax definition 310 provides definition information on the definition of a language syntax, which is established as a pattern including variable. *See, e.g.*, paragraph [0080]. Accordingly, Applicants respectfully submit that claim 1 should be allowable over Saeki.

Also, the Office Action alleges that Figures 4 and 5, and paragraph [0080] of Saeki discloses “a syntax pattern selector module for selecting, in an automated process, a syntax pattern,” corresponding to a desired function and a syntax standard, as recited in claim 1. Applicants respectfully disagree. In contrast, Saeki merely discloses that a calculation syntax definition 310 provides definition information on the definition of a language syntax, which is established as a

pattern including variable. *See, e.g.*, paragraph [0080]. Thus, Applicants respectfully submit that nowhere does Saeki disclose, or even suggest, that a syntax pattern is selected, in an automated process, corresponding to a desired function and a syntax standard.

Additionally, Applicants respectfully submit that Saeki teaches away from “a syntax pattern selector module for selecting, in an automated process, a syntax pattern,” corresponding to a desired function and a syntax standard, as recited in claim 1 (emphasis added). In particular, Saeki discloses in Figure 4, a retrieval object selection section 111, wherein a user first selects a specific display table by using a display table index in the retrieval objection selection section 111. Moreover, the user selects a display item from the selected display table. *See, e.g.*, paragraph [0087]. Therefore, Applicants respectfully submit that Saeki, at best, discloses that a user selects a specific display table and fails to disclose, or even suggest, “a syntax pattern selector module for selecting, in an automated process, a syntax pattern,” corresponding to a desired function and a syntax standard, as recited in claim 1 (emphasis added).

Regarding claims 2, 3, 8, and 9, these claims are dependent upon independent claim 1. Thus, since independent claim 1 should be allowable as discussed above, claims 2, 3, 8, and 9 should also be allowable at least by virtue of its dependency on independent claim 1.

Regarding independent claims 4-6, 10, 14, 16, 20, 21, 23, and 24, while different in overall scope from claim 1, these claims recite subject matter related to independent claim 1. Thus, the arguments set forth above with respect to independent claim 1 are equally applicable to claims 4-6, 10, 14, 16, 20, 21, 23, and 24. Accordingly, Applicants respectfully submit that claims 4-6, 10, 14, 16, 20, 21, 23, and 24 are allowable over Saeki for the same reasons as set forth above with respect to independent claim 1.

Regarding claims 7, 11-13, 15, 17-19, and 22, these claims are dependent upon independent claims 6, 10, 16, and 21. Thus, since independent claims 6, 10, 16, and 21 should be allowable as discussed above, claims 7, 11-13, 15, 17-19, and 22 should also be allowable at least by virtue of its dependency on independent claim 1.

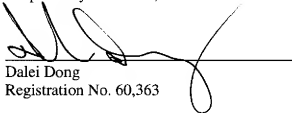
In view of the foregoing, Applicants respectfully submit that Saeki fails to teach each and every limitation of claims 1-24 and therefore the rejection should be withdrawn.

CONCLUSION

Applicants respectfully submit that this application and all pending claims are in condition for allowance and such disposition is earnestly solicited. If the Examiner believes that prosecution and allowance of the application will be expedited through an interview, whether personal or telephonic, the Examiner is invited to telephone the undersigned with any suggestions leading to the favorable disposition of the application.

It is believed that no additional fees are due for filing this Response. However, if it is determined otherwise, please charge or credit any variance to Deposit Account No. 50-0206.

Respectfully submitted,



Dalei Dong
Registration No. 60,363

Hunton & Williams LLP
1900 K Street, NW
Washington, D.C. 20006-1109
(202) 955-1500 (phone)
(202) 778-2201 (facsimile)

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